

BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

September 20, 2007

A meeting of the Board of Environmental Protection was held on Thursday, September 20, 2007 at the Holiday Inn / Ground Round, Augusta, Maine. Virginia Plummer, Chair, called the meeting to order at 9:00 a.m. with the following individuals present:

Board: Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Ernest Hilton, Sue Lessard, Matt Scott, Virginia Plummer, and Nancy Ziegler (note Ms. Ziegler arrived at approximately 9:15 a.m.)

Absent: Nancy Anderson

Board member Elizabeth Ehrenfeld departed at approximately 12:30 p.m.

<u>Staff:</u>	Bureau of Land and Water Quality	James Cassida
	Bureau of Land and Water Quality	Becky Maddox
	Bureau of Land and Water Quality	Robin Clukey
	Bureau of Land and Water Quality	Jennifer Cayer
	Bureau of Air Quality	Marc Cone

Others: Deb Garrett, Deputy Commissioner
Cindy Bertocci, BEP Executive Analyst
Mary Sauer, Assistant Attorney
Terry Hanson, Administrative Assistant

(Meeting adjourned at approximately 3:30 p.m.)

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS: Deputy Commissioner Deborah Garrett reported the following:

DEP Commissioner Schedule: Commissioner Littell has been attending meetings with the other 49 environmental commissioners from across the country and is currently at the meeting of the Environmental Council of States (ECOS). Participation at this conference is valuable to Maine as it is an opportunity to consider long-term issues such as interstate air transport and the recently proposed changes to federal regulations. The Deputy Commissioner noted a proposal by EPA to change definitions associated with transportation of hazardous waste and a petition by the electronics industry for exemption of electronics from the hazardous waste category. Maine's history on this transportation matter raises great concern that if either of these proposals succeed, it would result in the loss of the State's ability to track up to 50% of the hazardous wastes currently transported within Maine. The loss of the ability to track this material from point of generation to licensed disposal site creates the potential for significant contamination similar to that of the 60's which lead to major contamination at some sites and costly clean-up. Commissioner Littell spoke with his peers about these specific matters and received support from other States.

Penobscot River: The Department verified that the blue-green algae plume extended for about 75 miles but has dissipated. The Department is currently engaged in enforcement action with the mill.

Red Shield: The Department has received the results from the required stack testing. The testing showed that appropriate pollution controls are in place to meet standards. As a result of the tests, the Department has requested a report on the composition of the construction demolition debris fuel.

Request for Public Hearing: The Department has received a request for a public hearing on the disposal of dredged materials associated with a project by Cianbro (dredging of the Penobscot River). The dredged materials are being proposed for disposal in Penobscot Bay off Rockland.

B. COMMENTS FROM THE BEP CHAIR: None

C. EXECUTIVE ANALYST COMMENTS: None

D. BOARD CALENDAR: Reviewed

- E. DEPARTMENTAL ORDERS/APPLICATIONS ACCEPTED FOR PROCESSING:** Board member M. Wing Goodale asked about the applications by Dragon Products and whether they are associated with the recent Board decision.

The Board's Executive Analyst confirmed that the applications submitted by Dragon were for condition compliance directly associated with the Board's Order pertaining to closure and remediation of the waste clinker and cement kiln dust piles, specifically conditions: (3) update dust control provision of the operation and maintenance manual, (6) installation of air samples, (7) installation of video cameras, and (10) update leachate management plan.

- F. EXECUTIVE SESSION:** None

II CONSENT AGENDA ITEMS

Board voted (9-0-0-1) to approve consent agenda items 1, 2, 3, 4, 5, 6, 7, 8 and 9 as presented.

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Ernest Hilton, Sue Lessard, Virginia Plummer, Matt Scott, and Nancy Ziegler voted to support the motion. Board member Nancy Anderson was absent.

1. LIN-COR ENVIRONMENTAL, LLC // COMMERCIAL PAVING AND RECYCLING COMPNAY, LLC // E. LEBANON AUTO SALES, LLC, Lebanon – Administrative Consent Agreement and Enforcement Order (OC)
2. CAVENDISH AGRI SERVICES, INC, Caribou - Administrative Consent Agreement and Enforcement Order (BLWQ-WATER)
3. DEPARTMENT OF VETERANS AFFAIRS, Chelsea - Administrative Consent Agreement and Enforcement Order (BLWQ-WATER)
4. EDGECOMB DEVELOPMENT, LLC, Edgecomb - Administrative Consent Agreement and Enforcement Order (BLWQ-WATER)
5. DONALD THERRIEN, Sabattus – Administrative Consent Agreement and Enforcement Order (BLWQ-WATER)
6. ROCK RIDGE ESTATES, INC., Winslow – Administrative Consent Agreement and Enforcement Order (BLWQ-LAND)
7. JACK L. CROSS, Bethel - Administrative Consent Agreement and Enforcement Order (BLWQ-LAND)
8. GREENVILLE STEAM COMPANY, Greenville – Administrative Consent Agreement (BAQ)
9. STEVE MCGEE CONSTRUCTION, LLC a/k/a MCGEE CONSTRUCTION, Augusta – Administrative Consent Agreement and Enforcement Order (BRWM)

III. Regular Agenda

1. QUODDY BAY LNG, LLC and QUODDY BAY PIPELINE LLC, -- PERRY Site Location of Development L-23600-26-A-N, Natural Resources Protection Act L-23600-TG-B-N, Air Emissions A-000975-71-A-N, Waste Discharge and Storm Water W-9010-50-A-N, Section 401 Water Quality Certification and Coastal Zone Management Act (Decision on Petitions to Intervene)
Staff: Robin Clukey, Bureau of Land and Water Quality

The Board voted (7-0-2-1) on a motion to grant intervenor status to City of Eastport, Eastport Port Authority, Roosevelt Campobello International Park Commission, Normand LaBerge - Tidewalker Associates, Downeast LNG Inc. and Downeast Pipeline LLC, North East Energy Development Company, Save Passamaquoddy Bay and Specified Individuals in the licensing proceeding on the applications made by Quoddy Bay LNG, LLC – Quoddy Bay Pipeline LLC for a natural gas import terminal and associated send-out pipeline. The Board voted pursuant to 38 M.R.S.A. Section 341-D(2), Administrative Procedures Act, Title 5 Section 9054(1) and (2).

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Ernest Hilton, Sue Lessard, and Matt Scott, voted to support the motion. Board member Nancy Ziegler abstained and Virginia Plummer stated that she would not be participating in the proceeding. Board member Nancy Anderson was absent.

2. PAMELA WENDELL, Natural Resources Protection Act L-23381-TA-A-N (appeal submitted by Marion Funkhouser and Rockwell LLC)
Staff: Jim Cassida, Bureau of Land and Water Quality
Staff: Becky Maddox, Bureau of Land and Water Quality

The Board voted (9-0-0-1) on a motion to deny the request by Marion Funkhouser to postpone consideration of the merits of the appeal pending her request to the Department of Health and Human Services Division of Environmental Health for a review of the replacement system variance. The Board voted pursuant to 38 M.R.S.A. Section 341-D(4) and 06-096 CMR Chapter 2, Rules Concerning the Processing of Licenses and Other Administrative Matters.

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Ernest Hilton, Sue Lessard, Virginia Plummer, Matt Scott, and Nancy Ziegler voted to support the motion. Board member Nancy Anderson was absent.

The Board voted (9-0-0-1) on a motion to deny the appeals submitted by Marion Funkhouser and Rockwell LLC and approve the proposed Board Order as presented which denies the request for a public hearing and affirms Department Order L-23381-TA-A-N for alteration of 4,230 square feet of freshwater wetland to construct a driveway. The Board voted pursuant to 38 M.R.S.A. Section 341-D(4) and 06-096 CMR Chapter 2, Rules Concerning the Processing of Licenses and Other Administrative Matters.

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Ernest Hilton, Sue Lessard, Virginia Plummer, Matt Scott, and Nancy Ziegler voted to support the motion. Board member Nancy Anderson was absent.

III. Regular Agenda (continued)

3. FPL ENERGY WYMAN, LLC & WYMAN IV, LLC / LICENSE AMENDMENTS FOR ALTERNATIVE NOx EMISSION LIMITS (decision)

Staff: Marc Cone, Bureau of Air Quality

The Board voted (8-0-1-1) on a motion to approve the application by FPL Energy Wyman, LLC and Wyman IV, LLC for Part 70 Air Emission License A-388-70-C-A Amendment #2 establishing alternative NOx emission limits of 0.175 lb/MMBtu for Unit 3, 0.170 lb/MMBtu for Unit 4, and a combined limit for Units 3 and 4 of 0.165 lb/MMBtu based on a 90-day rolling average. The Board voted pursuant to 38 M.R.S.A. Section 341-D, 06-096 CMR Chapters 140, 145 and 115.

Board members Elizabeth Ehrenfeld, Richard Gould, Don Guimond, Ernest Hilton, Sue Lessard, Virginia Plummer, Matt Scott, and Nancy Ziegler voted to support the motion. Board member M. Wing Goodale recused. Board member Nancy Anderson was absent.

4. DOWNEAST LNG, DOWNEAST PIPELINE // ROBBINSTON Site Location of Development L-23432-26-A-N, Natural Resources Protection Act L-23432-TG-B-N, Air Emissions A-000960-71-A-N, Section 401 Water Quality Certification and Coastal Zone Management (request to withdraw applications)

Staff: Cynthia S. Bertocci, BEP Executive Analyst

The Board voted (5-3-0-2) on a motion to deny the request submitted by Downeast LNG to withdraw its applications from consideration. The vote was taken pursuant to 38 M.R.S.A. §341-D(2) and 06-096 CMR Chapter 2, Rules Concerning the Processing of Licenses and other Administrative Matters and Chapter 30, Special Regulations on Hearings on Applications of Significant Public Interest.

Board members M. Wing Goodale, Ernest Hilton, Virginia Plummer, Matt Scott and Nancy Ziegler voted to support the motion. Board members Richard Gould, Don Guimond and Sue Lessard voted opposed. Board members Nancy Anderson and Elizabeth Ehrenfeld were absent. [Note: Board members Anderson and Ehrenfeld are not participating in the Downeast matter]

Next Regular Meeting –Thursday, October 4, 2007 – **Holiday Inn / Ground Round**